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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,591

09/30/2003

Bjarne Schon

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WESTMAN CHAMPLIN (MICROSOFT CORPORATION)

SUITE 1400

900 SECOND AVENUE SOUTH

MINNEAPOLIS, MN 55402-3319

EXAMINER

DANNEMAN, PAUL

ART UNIT

PAPER NUMBER

3627

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/675,591	Applicant(s) SCHON, BJARNE	
	Examiner PAUL DANNEMAN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11 Jan 2008, 8 Jan 2007, 18 Nov 2005, 1 Feb 2005,</u> | 6) <input type="checkbox"/> Other: _____ |
| <u>and 13 May 2004.</u> | |

DETAILED ACTION

Status of Claims

1. This action is in response to the application filed on 30 September 2003.
2. Claims 1-40 have been examined.

Claim Objections

3. Claims 30-33 are objected to because of the following informalities: Claims 30-33 are dependent on the wrong / improper claims. For purposes of expediting the prosecution of this application, the examiner is interpreting as follows: Claim 30 should depend on 29, Claim 31 should depend on 30, Claim 32 should depend on 29 and Claim 33 should depend on 30. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 1-4, and 7--40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al., US 6,837,436 B2 henceforth known as Swartz.

7. **Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are

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representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

Claims 1, 22-26, 38-39, and 40:

With regard to the limitations for an order filling system:

- ***A product carrying device (shopping cart, forklift and pallet).***
- ***A shopping list (picklist) and means for receiving and storing a list from an external computer.***
- ***Means for updating list based on items placed on cart.***

Swartz in at least Column 2, lines 12-21 discloses a portable shopping and order fulfillment system retrieving associated data files stored at remote addresses through a wireless communication network and storing the list on the portable terminal (Swartz, Column 7, lines 50-51). Swartz in at least Column 2, lines 41-53 further discloses that an authorized user may remotely or locally access the order system to create a shopping list for items that the user may pickup individually at the store or the shopping list may be used to collect the items for delivery. Swartz in at least Column 2, lines 54-60 still further discloses that when the items are collected, either by the customer or an attendant, the collector is provided with a portable hand-held terminal which displays the list of items to be collected. The portable terminal is in communication with a central host and may have a machine code reader to assist in recording selected items from the list. Therefore, it would be obvious, at the time of the invention, for one of ordinary skill to conclude that a picklist and shopping list are references to whether the order is being picked by a second or third party while a consumer uses a shopping list to fill their order.

Claims 2-4, 27-28, and 37:

With regard to the limitations:

- ***Receiving a radio frequency (RF) signal from an item's tag.***

Swartz in at least Column 2, lines 21-25 discloses an item being identified by a portable terminal. Swartz in at least Column 4, lines 58-67 further discloses that the portable terminal's machine code reader can be a bar code reader, a radio frequency tag reader, a CCD or CMOS imager or any other type of machine code reader which can decode encoded indicia on an article and/or collect data by means of optical, radio, or other means.

Claims 7, 21, 29-31, 33, and 34-35:

With regard to the limitations:

- ***Updating the display device to reflect the quantity remaining to fill an order***
- ***Description of each item is on the shopping list (picklist).***
- ***Portable terminal has a user interface to change information displayed in response to user input.***

Swartz does not specifically disclose the display device being updated to reflect the current quantity or the quantity remaining to fill an order. However, Swartz in at least Column 17, lines 18-29 discloses records related to a particular customer on a particular date indicating the total quantity of items that the customer purchased and a chronological list of the order that each item was selected and purchased. Swartz in at least Column 20, lines 28-40 further discloses that the portable terminal is provided with activation buttons allowing the user to perform various functions like adding an item selected by the consumer to a list of purchased items, a key to remove a previously selected item from the purchase list, a key to perform a price check or other information check and a key to display the total cost of the items selected for purchase. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill in the art to conclude that a display with a total cost of items selected for purchase has determined the total cost by taking the item cost and multiplied it by the number of items and therefore is capable of displaying the quantity of the items purchased along with the quantity information contained in the shopping list.

Swartz in at least Column 5, lines 49-53, and Column 7, lines 37-67 further discloses that the portable terminal has a display device that can function as a video display and a data input device. The portable terminal has several of input devices including an optical character scanner and memory for storing an electronic shopping list, past purchasing history and/or coupons and location tracking features.

Claims 8-10, 13 and 32:

With regard to the limitations:

- ***Indication of next item in the list and the location of that item.***

Swartz in at least Column 40, lines 62-67 discloses the portable terminal with a graphical user interface that simulates a store layout, i.e., aisles with items in them as they are stacked within the store permitting the user to find items within the store. Swartz in at least Column 41, lines 8-14 discloses that the shopping system can assist a customer in finding items on the customer's shopping list by blinking on the display the location of the items.

Claims 11-12:

With regard to the limitations:

- ***Handling instructions can be received at the display.***
- ***Loading pattern instruction can be received at the display.***

Swartz in at least Column 2, lines 59-67 discloses the portable terminal being provided with item-related information such as delivery instructions and packing requests and in at least Column 3, lines 9-14 illustrative help and instructional files associated with the selected item. Therefore, it would be obvious, at the time of the invention, for one of ordinary skill to determine that Swartz's instructions regarding the selected item provide information with respect to handling and loading or packing.

Claim 14:

With regard to the limitation:

- ***Querying the operator about additional items not on the list.***

Swartz in at least Column 40, lines 13-23 discloses a customer being provided promotions for items which compete with an item on the list. Swartz in at least Column 38, lines 2-6 further discloses that a customer may receive messages offering discounts for items not on the shopper's list. Swartz in at least Column 34, lines 28-40 discloses sending messages to customers about products as the customer approaches a product or a specific section of the store.

Claims 15-17, and 36:

With regard to the limitations:

- ***Determining if a detected item is or is not on the list or is in a different format.***
- ***Adding the detected item to the shopping list.***
- ***Alerting user that item detected item is not on the list.***

Swartz in at least Column 40, lines 23-34 discloses notifying the customer that an item detected is not on the shopping list, is of a different size or format, or is a competing product. Swartz does not specifically disclose that the shopping list is updated on the display with any item detected that's not on the shopping list per se. However, Swartz in at least Column 17, lines 18-29 discloses records related to a particular customer on a particular date indicating the total quantity of items that the customer purchased and a chronological list of the order that each item was selected and purchased. Therefore, it would be obvious, at the time of the invention, for one of ordinary skill to conclude that since the shopping system can display the history of a previous shopping trip that the shopping list must be updated.

Claims 18 and 19:

With regard to the following limitations:

- ***Accessing additional data about an item.***
- ***Display device provides access to additional data.***

Swartz in at least Column 5, lines 64-67, and Column 6, lines 1-3 discloses that the portable terminal previously disclosed includes a key for a customer to indicate that they would like additional information about an item (recipe, nutritional, etc.).

Claim 20:

With regard to the limitation:

- ***Directing a shopper or order filler to a checkout area on fulfilling an order.***

Swartz in at least Column 43, lines 55-58 discloses a customer receiving on the portable terminal a notification that an order has been fulfilled or is about to be fulfilled. Swartz in Column 44, lines 6-32 further discloses a customer checking into a checkout queue and a customer being assigned a “window” or an order on the queue wherein the customer can proceed to the checkout counter. The customer’s order on the queue may be determined by the order of their signing onto the queue, number and/or type of products and other factors. Therefor, it would be obvious, at the time of the invention that Swartz can direct a customer to a checkout facility in various ways including listing on the shopping list the checkout facility as the last item on the shopping list.

8. **Claims 5-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al., US 6,837,436 B2 henceforth known as Swartz in view of **OFFICIAL NOTICE**.

Claims 5-6:

With regard to the limitation:

- Shopping list includes the desired quantity for each item.

Swartz does not specifically disclose the desired quantity of an item as being on the shopping list (picklist); however Examiner takes **OFFICIAL NOTICE**, that it is old and well known in the shopping art that a shopping list includes the desired quantity for each item. Therefore, it would have been obvious, to one of ordinary skill in the art to modify Swartz's interactive shopping system with a desired quantity for each item to determine the purchase quantity.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- US 5,640,002, Ruppert et al., teaches a portable RFID tag and bar-code reader.
 - US 6,179,206 B1, Matsumori, teaches an Electron Shopping System having self-scanning price check and purchasing terminal.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul Danneman/

Examiner, Art Unit 3627

4 February 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627